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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4128 OF 2004

PETITIONER : Rakesh Kumar Pandey, S/o. Late S. Pandey, C/o. Rita Pandey, Madhu Chowk, Behind State Bank, Balod, Distt. Durg (Chhattisgarh)

VERSUS

RESPONDENTS

1] Chhattisgarh State Electricity Board, Dagania, Raipur, Through: Secretary, C.S.E.B., Raipur (C.G.)

2] Madhya Pradesh Electricity Board, Through: Secretary, M.P.E.B., Rampur, Jabalpur (M.P.)

3] State of Chhattisgarh Through-Chief Secretary, Mantralaya Raipur (C.G.)

P.R. Presented dated

Attested

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

Particulars of the petitioner:

PE

RES

P.R.
Presented
dated

Respondent No. 4- Union of India, Through- Its Secretary, Department of Personnel Training, Ministry of Personnel Public Grievances and Pension (State Reorganisation Cell), Lok Nayak Bhawan, Khan Market New Delhi.

Per court order dated 27-4-06 Amendment in Corporate Date 2.5.06
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XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 4128/04 सन् **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

7.7.2006

Shri Ashok Vaishnav, learned counsel for the petitioner.

Shri A.S Gaharwar, learned counsel for respondent No.1.

Shri P.S Nair, learned Senior Advocate, with Shri P.S Koshi, learned counsel for respondent No.2.

Shri G.K. Beriwal, learned Dy. Advocate General, for the State of Chhattisgarh.

Shri S.K. Beriwal, learned counsel for respondent no. 4.

Heard.

By this writ petition, the petitioner has prayed for a direction to the respondent – Chhattisgarh State Electricity Board to give him compassionate appointment on the post of AG-III.

The case of the petitioner is that his father namely late S. Pandey expired in harness on 06/04/1996 while working in the Department of Electricity Board as Office Assistant Grade-II. On that, the petitioner made an application for appointment on compassionate ground and an order of appointment on the post of Mechanic Helper Grade-II was issued by the MPEB on 03/05/1999 (Annexure-P/1). The petitioner made an application dated 01/06/1999 (Annexure-P/2) for extension of time for joining. On the request of the petitioner, the joining date was extended for production of the certificates vide Annexure-P/3 so that the petitioner may be

(पीछे देखिये)

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आदेश पत्रक

मामला क्रमांक W.P.No.412/04 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

considered for appointment on the post of AG-III. The request of the petitioner was accepted and he was given thirty days' time for production of certificates. On 10/06/1999 (Annexure-P/4) i.e. within the time allowed by the respondents, the petitioner submitted the certificates. Thereafter, the petitioner made several representations to the Electricity Board, but, nothing has been done. Rather, his claim has been declined by the CSEB vide communication dated 29/01/2004 (Annexure-P/10) mentioning therein that as per the policy decision the dependants of those employees who died on or after 15/11/2000 are entitled for compassionate appointment. The reply of the CSEB is also to that effect. However, the reply filed by the MPEB is that after reorganisation of the State on 01/11/2000, and as per the Government of India, Ministry of Power, order dated 12/04/2001 read with corrigendum dated 18/05/2001 the CSEB has been constituted for the area of the State of Chhattisgarh and the Central Government on the request of both the successor States has issued directions for division of the assets, liabilities and employees on provisional basis w.e.f. 15/04/2001. All the cases of compassionate appointment which were pending with the erstwhile MPEB have also been sent to the Joint Secretary (Personnel), CSEB, Raipur vide letter dated 17/01/2002 and to the Additional Secretary, CSEB, Raipur vide letter

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आदेश पत्रक

मामला क्रमांक W.P. No. 4128/04 **सन्** **200**

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

dated 22/01/2002, the petitioner's case is that his case was sent to the Addl. Secretary, CSEB, Raipur vide letter dated 22/01/2002 wherein his name was mentioned at Sr. No.120.

I have heard learned counsel for the parties.

Having heard learned counsel for the parties and perused the record, it is an admitted position that the petitioner was already appointed on compassionate ground on the post of Mechanic Helper Grade-II vide order dated 03/05/1999 and it is also clear from the document (Annexure-P/3) dated 04/06/1999 issued by the Chief Engineer (Production) that the petitioner sought extension for joining on the post of Mechanic Helper Grade-II and ultimately the time sought by the petitioner was allowed. However, it was made clear in that order that the petitioner should join within the period allowed by the MPEB, otherwise his appointment order would be treated as cancelled. It is admitted that the petitioner had not joined on that post, therefore, now claim of the petitioner to the said post is not available to him as he failed to join on that post. Now, coming to the second limb of the argument that the request of the petitioner to the respondents authorities that his case be considered for the post of AG-III regarding which he had produced typing test certificate

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on 10/06/1999, but, his case remained pending for the consideration for the post of AG-III. But, to this effect, there is no reply of the MPEB. In the meantime CSEB came into existence w.e.f. 15.11.2000. In the circumstances, as the file of the petitioner is available with the CSEB and the CSEB to examine the file of the petitioner. If as per record any such promise was made to the petitioner that his case would be considered for the post of AG-III, then his case be processed for compassionate appointment on the post of AG-II. If there is no such noting on the file that the petitioner had made any request for the appointment on the post of AG-III in place of Mechanic Helper Grade-II and the authorities agreed for the same on production of documents then the petitioner would not be entitled for any relief. It is made clear that if such a noting is found in the file, then the petitioner is entitled for consideration for the post of AG-III in accordance with the policy dated 30/01/1997.

With the above observation, the petition stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Brajesh

(पीछे देखिये)